

THE **GEON** COMPANY

6100 Oak Tree Blvd.  
Cleveland, OH 44131

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WOODROW W. BAN

Senior Corporate Counsel  
Assistant Secretary

Direct Line: (216) 447-6449  
Fax: (216) 447-7727

March 8, 1994

Attention: Mr. Andy Dodson  
Federal Election Commission  
999 E. Street, N.W.  
Washington, D.C. 20463

Subject: Request for advisory opinion  
Reference: C 002 887 12

The Geon Company Political Action Committee, newly formed, wishes to solicit the employee members of its unrestricted class via a mailing in conformance with all law and regulation. To that end, the GEON PAC proposes to send the attached letter to its employee members of the unrestricted class, after due notification to any unions representing employees of the company. The custodian nominated, Lee Larson, sits as a non-voting member of the GEON PAC.

Since comprehensive guidelines on the appropriate content of such letters do not appear to exist, and since the GEON PAC has found no indication as to the FEC's view of the use of matching programs in connection with contributions from unrestricted class members, the GEON PAC solicits an advisory opinion that the use of the attached letter will not place the Company nor the GEON PAC in violation of Federal Election law or regulation as presently interpreted by the FEC.

Should the FEC consider the letter to violate Federal Election law or regulation in some manner, the GEON PAC would appreciate a particularized articulation of the aspects of concern.

Very truly yours,



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Dear :

The Geon Company has recently formed The Geon Company Political Action Committee, Geon PAC for short, set up according to Federal Election Commission guidelines. Companies like Geon, by law, have very significant restrictions on their ability to contribute funds in support of political candidates. On the other hand, employees are permitted to contribute, and have their political contributions go to candidates who support issues favoring their employer's interest. The Geon PAC lets employees make voluntary political contributions which The Geon PAC then directs to carefully selected political candidates. The Geon PAC would like to offer you this opportunity to contribute, on a strictly voluntary basis, to the Geon PAC, a Geon oriented political fund.

You may have been aware of BFGoodrich's Political Action Committee -- BFG PAC. Geon's PAC will operate in a similar fashion. Geon will provide a capital match program for all contributions in excess of \$50.00 annually so that a recognized IRS 501 charity of your choice can receive a donation from Geon equal to 50% of your PAC contribution. Naturally, Geon will not capital match to organizations which have actively opposed Geon's products or processes in the legislative process. Neither your PAC contribution nor your capital match donation are tax deductible.

The Geon PAC wants ONLY voluntary contributions, contributions you wish to make out of a desire to further the purposes of the Geon PAC. You have an absolute right and privilege to refuse to contribute to the Geon PAC, and if you choose not to contribute, you can rest assured that no reprisal or repercussion will occur.

To protect that right and privilege, and to assure against reprisals, The Geon PAC will preserve the anonymity of those who choose not to contribute. It will also preserve the anonymity of those who make a single contribution of \$50 or less, as well as those who make multiple contributions totalling in the aggregate less than \$200.00 in a calendar year. Federal Law requires us to report contributions in excess of \$200.00 annually.

As a part of providing this anonymity, The Geon PAC has established Lee Larson, Assistant Treasurer, as the custodian to receive contributions you choose to make. Therefore, when making contributions, please use the pre-addressed (to Lee) return envelope we enclose. You do not need to reply if you choose not to contribute.

If you choose to contribute in excess of \$50.00, or think you will contribute in excess of \$50.00 over the calendar year, please fill out and return in the same envelope, the enclosed capital match card. Make sure you get the IRS 501 ID number for the organization you wish to have receive the capital gift match, since we cannot conclude the match without this number. Lee will protect the anonymity of the gift match information you provide as well.

If you would like to contribute to Geon PAC, please enclose both your check (we cannot accept cash) and the completed capital match card in the envelope provided.

Thank you for your consideration.



**FEDERAL ELECTION COMMISSION**

WASHINGTON, D.C. 20461

March 23, 1994

Woodrow W. Ban  
Senior Corporate Counsel  
The Geon Company  
6100 Oak Tree Blvd.  
Cleveland, OH 44131

Dear Mr. Ban:

This refers to your letter dated March 8, 1994, on behalf of Geon Company Political Action Committee ("Geon PAC"), the separate segregated fund of Geon Company ("Geon"), concerning the application of the Federal Election Campaign Act of 1971 ("the Act") to a proposed matching charitable contribution plan and a related solicitation letter directed to Geon employees.

You state that since Geon PAC has found no indication of the FEC's view of the use of matching programs in connection with contributions from unrestricted class members, Geon PAC seeks an advisory opinion that its solicitations will not place Geon or Geon PAC in violation of Federal election law. Your letter raises issues relating to the application of the matching charitable contribution plans to employees outside the restricted class. In the past, the Commission has approved the application of such programs to a corporation's restricted class. See Advisory Opinions 1990-6, 1989-9 and 1989-7, copies enclosed.

You should be aware that in Advisory Opinion Request 1994-3, this office and the Commission will address the application of these programs to employees outside the restricted classes. This office will soon prepare a draft opinion for the Commission's consideration. The draft will be available for public comment before the Commission takes it up in a future public meeting.

Your letter also raises issues relating to the requirements of a solicitation letter directed to employees outside the restricted classes. You should note the requirements for such twice yearly solicitations as set out in 11 CFR 114.6 (particularly section 114.6(c) relating to written solicitations). For your information and guidance, copies of these regulations as well as a copy of Advisory Opinion Request 1994-3 are enclosed.

Woodrow W. Ban  
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The Act authorizes the Commission to issue an advisory opinion in response to a "complete written request" from any person with respect to a specific transaction or activity by the requesting person. 2 U.S.C. §437f(a). Commission regulations explain that such a request "shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made." 11 CFR 112.1(c).

Your letter lacks a complete description of the facts necessary for an advisory opinion request. Therefore, if after reviewing the enclosed materials you still wish to request an opinion, please provide the following information:

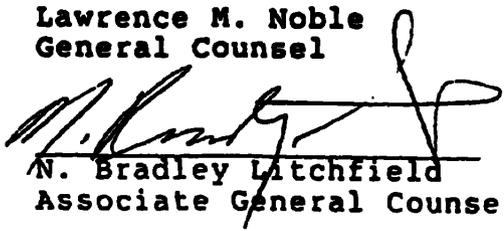
1. Explain further the matching charitable contribution plan, including details of the custodial arrangement that would be set up for contributions from employees outside the restricted class. Also, provide any information such as bylaws or articles of association relating to the governance of Geon PAC.

2. Provide any information regarding the role, duties, and decision-making responsibilities in Geon PAC of the assistant treasurer who is the proposed custodian in your matching charitable contributions plan. State whether the proposed custodian is a shareholder in Geon Company or holds a position with Geon Company. If this individual holds a position with Geon Company, describe the position and the duties thereof.

After receiving the above information, this office and the Commission will give further consideration to your inquiry as an advisory opinion request. If you have any questions concerning the advisory opinion process, the enclosed materials, or this letter, please contact the undersigned.

Sincerely,

Lawrence M. Noble  
General Counsel

BY: 

N. Bradley Litchfield  
Associate General Counsel

**Enclosures:**

Advisory Opinion 1990-6, 1989-9, 1989-7  
Advisory Opinion Request 1994-3  
11 CFR 114.6

**THE GEON COMPANY**

6100 Oak Tree Blvd.  
Cleveland, OH 44131

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**WOODROW W. BAN**

Senior Corporate Counsel  
Assistant Secretary

Direct Line: (216) 447-6449  
Fax: (216) 447-7727

March 29, 1994

N. Bradley Litchfield, Esq.  
Associate General Counsel  
Federal Elections Commission  
Washington, D.C. 20463

**ADR 1994-07**

Reference: Your letter dated as of March 23, 1994

Dear Mr. Litchfield:

Thank you for your letter. Please consider this response in conjunction with my original request for an advisory opinion.

It would appear we agree that FEC has not yet addressed whether a non-restricted class may participate in a charitable contribution plan matching fund. While we appreciate your indication that your office plans to address the question soon, you did not provide even the barest whiff of what, in the present thinking in your office, the answer will resemble (and we understand, of course, that the thinking in your office may change at any time). If in your present belief, your office will provide a draft opinion which substantially precludes participation by a non-restricted class in such a matching fund, the GEON PAC would appreciate an indication of that fact so that it may cease now its activity in preparing for a non-event pending, of course, final resolution by the Commissioners.

The charitable contribution plan would work very simply. Those individuals who, at the end of a calendar year, had contributed at least \$50.00 to the GEON PAC would have a donation made by the Company to an IRS § 501 listed charitable organization of the contributor's own choosing. If the contributor made no selection of a charitable organization, no contribution would occur. Mechanically, the Assistant Secretary of the GEON PAC, a clerical employee of The Geon Company who in her regular job duties provides secretarial support to the Company's Patent Law function, would prepare the short forms used for all the Company's charitable gift matching activities, and submit those forms to the clerical employee in the Company's Human Resources Department charged with administering the gift matching program, who would, in turn, prepare check requests showing the amount of the check and the payee.

Turning to the matter I raised relating to solicitation of the non-restricted class, I enclose a copy of the Articles of Association for the GEON PAC. Kindly note that the current composition of the Committee includes seven voting individuals, none of whom serve as CEO/COO or directly report to the CEO/COO. The following individuals currently hold office as voting members of the GEON PAC: Woodrow Ban, Carol Schmidt, Cil Knutsen, Glenn Higby, Joel Simmons, John Rastetter, and Rob Rosenau. Lee Larson and Nancy

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Haverdill serve as non-voting members, Mr. Larson as an Assistant Treasurer, and Mrs. Haverdill as an Assistant Secretary.

You inquired as to the nature of the anticipated custodial arrangement for contributions from the non-restricted class. The GEON PAC would like to establish Mr. Lee Larson as the custodian. Mr. Larson serves on the PAC committee as a non-voting member primarily to provide back-up Assistant Treasurer capability, and back-up capability for legal advice. Mr. Larson may from time to time own stock in The Geon Company by reason of the exercise of a stock option, or by reason of investment based upon his independent decision to purchase shares. He typically does not have to report his holdings to the Company, does not regularly fall within the class of individuals considered "insiders," and does not typically suffer "insider" type restrictions on the timing of any transactions he may make in the Company stock. He may have a current equitable interest in shares held by the trustees for the Company's savings and investment plans and 401K plan.

In his duties as custodian, as contemplated by the GEON PAC, Mr. Larson would receive the contributions directly from non-restricted class members, either log them personally on the spread sheets maintained by the Assistant Secretary to record contributions, or arrange for the Assistant Secretary to log the contributions. At the end of the year they would ascertain which of the non-restricted class members had contributed a sum sufficient to trigger charitable gift matching, and would submit the necessary forms to secure the gift match, all as described above. The above-mentioned Assistant Secretary customarily handles the deposit of contributions from the restricted class to the GEON PAC, preparing the deposit slips and logging the contributions on the spreadsheet employed for purposes of preparing FEC periodic reports.

In response to your inquiry, Mr. Larson works for The Geon Company, holding the job title Senior Corporate Counsel, and practicing in the field of environmental law. He functions as the Company's only in-house environmental attorney. In his job with the Company, he does not report functionally or administratively to any member of the GEON PAC committee. Individuals outside the Treasurers (who must sign the reports to the FEC listing contributors of \$200.00 or more) and the Assistant Secretary would not ordinarily know which non-restricted class members contributed and which did not.

I hope that the foregoing responds completely to the requests you have made for additional information. If I have inadvertently omitted necessary information, or if you find that this response prompts a request for yet additional information, please revert.

Very truly yours,



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**THE GEON COMPANY POLITICAL ACTION COMMITTEE**

**ARTICLES OF ORGANIZATION**

**ARTICLE I**

**Name**

This document establishes in the State of Ohio, The Geon Company Political Action Committee (hereinafter called "GEON PAC").

**ARTICLE II**

**Principal Office and Address**

The principal office of GEON PAC shall exist at 6100 Oak Tree Boulevard, Independence, Ohio 44131.

**ARTICLE III**

**Organization**

GEON PAC shall function as a voluntary, non-profit, unincorporated political association. GEON PAC shall function independently of any political party, candidate or organization except that The Geon Company shall, to the extent permitted by applicable law and regulation, defray all the costs and expenses incurred in the establishment and administration of, and in the solicitation of contributions to GEON PAC.

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## ARTICLE IV

### Purposes

**GEON PAC shall act through the political process to protect, preserve and further the private enterprise system and, in particular, protect and advance the industries and areas of business in which The Geon Company, its subsidiaries and affiliates may engage from time to time. To achieve these purposes, GEON PAC shall have the power to solicit and accept voluntary contributions from individuals and other political committees and to expend such contributions to influence the nomination for election, and the election, of candidates for federal, state and local elective public office who in the view of the GEON PAC may generally agree with and further the purpose of GEON PAC. In carrying out the foregoing, GEON PAC shall have the power to make contributions, within limits authorized by law and regulation, to national, state and local committees working to elect candidates of political parties, and to political action committees and other organizations, as authorized by law and regulation, engaged in activities which in the view of the GEON PAC may further any of the purposes of GEON PAC.**

## ARTICLE V

### Participation

**Subject to applicable law, all United States citizens and all permanent U.S. residents who also hold stock in or employment with The Geon Company or any of its subsidiaries may contribute to GEON PAC, and GEON PAC may solicit and accept contributions from any such employees or stockholders.**

## ARTICLE VI

### Contributions

**Section 1.** All contributions to GEON PAC must occur voluntarily, and no contributions to GEON PAC shall arise by reason of job discrimination or financial reprisal, or because of the threat of job discrimination or financial reprisal, or as a condition of employment by or contractual relationship with The Geon Company or any of its subsidiaries.

**Section 2.** The GEON PAC shall accept no contribution nor make any expenditure at a time when there is a vacancy in either the office of its 1) Chairman or 2) Treasurer and all Assistant Treasurers other than contributions by payroll deduction authorized while no vacancy existed in such offices.

**Section 3.** Contributors to GEON PAC shall not have any property right in the funds or assets of GEON PAC upon its dissolution, or at any other time. In the event of the death of a contributor, no refund of moneys contributed by him shall occur to him or his estate.

**Section 4.** The expenditure by GEON PAC of any of GEON PAC's funds shall lie within the sole discretion of the GEON PAC Contributions Committee.

**Section 5.** GEON PAC shall accept only unrestricted contributions of not less than one dollar, in even dollar amounts, and shall accept no contribution earmarked by the contributor for any political committee or candidate. Under no circumstances shall the GEON PAC accept a contribution of cash or currency. The GEON PAC may only accept contributions in the form of a personal check, bank draft, postal money order or checks, or wire transfers representing contributions derived from contributors' authorized payroll or dividend deductions provided that the GEON PAC may accept non-payroll deduction contributions from shareholders and employees belonging to the "non-restricted" class as defined by statute and regulation.

## **ARTICLE VII**

### **Separate Segregated Fund**

The GEON PAC shall maintain all contributions as a separate, segregated fund, in one or more national or state banks designated by the Treasurer, and shall make all expenditures by GEON PAC in support of any candidate or political committee by check drawn on such fund(s) and from no other source.

## **ARTICLE VIII**

### **Officers**

Section 1. The officers of GEON PAC shall comprise a Chairman, Vice Chairman, Treasurer, one or more Assistant Treasurers and a Secretary appointed by the Chairman of The Geon Company. Officers for GEON PAC shall receive no consideration whatsoever for performing work for GEON PAC, serve at the pleasure of The Geon Company's Chairman, and may suffer removal at any time, without notice. Individuals who do not contribute to the GEON PAC may not serve as officers.

Section 2. The Chairman shall serve as chief executive officer of GEON PAC and shall, subject to the direction of the Contributions Committee as set forth in Section 2 of Article IX, managing the financial affairs of GEON PAC. The Chairman shall preside over meetings of GEON PAC and meetings of the Contributions Committee.

Section 3. The Vice Chairman shall assist the Chairman as requested, shall assume the

duties and exercise the powers of the Chairman during the absence or incapacity of the Chairman, and in the event of a vacancy in the Chairman's office, shall automatically and immediately succeed to the position of Chairman without any requirement of formal appointment.

**Section 4. The Treasurer shall serve as the chief financial officer of GEON PAC. The duties of the Treasurer and the Assistant Treasurers individually shall include, without intent of delimitation, the following:**

- (a) Establish and maintain one or more bank accounts for the deposit of all contributions received, sign all checks (one signature required), invest the funds on deposit, initiate funds transfers, and execute all agreements necessary to implement the foregoing;**
- (b) Deposit all funds and keep all records in accordance with the Federal Election Campaign Act of 1971, as amended, any other applicable laws and regulations, this Articles of Organization, and, where not inconsistent with the foregoing, the directives of the Chairman and the Contributions Committee:**
- (c) Advise the Chairman of the total amount of funds held by GEON PAC, the disbursements by GEON PAC, and such other information as appropriate under the circumstances or requested by the Chairman or any other GEON PAC officer; provided, however, the Treasurer shall not reveal the name of any contributor, the amount of money contributed by an individual, or the name of any non-contributor except as required by applicable law or regulation or on order of a court of competent jurisdiction over GEON PAC;**
- (d) Keep a detailed account of:**
  - (i) all contributions made to or for GEON PAC,**

- (ii) the full name, mailing address, occupation and principal place of business of every person making a contribution in excess of \$10, and the date and amount thereof,
  - (iii) all expenditures made by or on behalf of GEON PAC,
  - (iv) the full name, mailing address, occupation and principal place of business of every person to whom or on whose behalf any expenditure occurs, the date and the amount thereof,
  - (v) receipted bills, stating the particulars for every non-contribution expenditure made by or on behalf of GEON PAC, and
  - (vi) such other books or records as may be required in the conduct of the business of GEON PAC;
- (e) Execute and file all reports required of GEON PAC by law or regulation; and
  - (f) Disburse funds at the direction of the Chairman and/or the Contributions Committee.

**Section 5. The Assistant Treasurers shall assist the Treasurer as requested, shall perform the duties and function and exercise the powers of the Treasurer concurrently with the Treasurer, and, in the event of a vacancy in the Treasurer's office, shall automatically and immediately succeed to the position of Treasurer in order of seniority without requirement of formal appointment in the order of their appointment to the Assistant Treasurer position.**

**Section 6. The Secretary, and Assistant Secretary in his absence, shall maintain all minutes of meetings of GEON PAC and the Contributions Committee, arrange and coordinate meetings, and provide other documents as required by the officers.**

## **ARTICLE IX**

### **Contributions Committee**

**Section 1. The Contributions Committee shall supervise and direct the financial affairs of GEON PAC, including particularly the making of any contributions to candidates or political committees. The Chairman of GEON PAC shall serve as a member of the Contributions Committee and as its Committee Chairman. Other members of the Committee shall comprise such other GEON PAC participants as the Chairman of The Geon Company designates and appoints from time to time, and they serve at his pleasure. If a vacancy shall occur on the Contributions Committee, the Chairman may appoint someone to fill the vacancy on a temporary basis until such time as the Chairman of The Geon Company shall appoint a replacement. A quorum of the Contributions Committee for the transaction of business shall consist of a majority of its members. All motions presented at meetings of the Contributions Committee shall require for adoption the affirmative vote of a majority of Contributions Committee members then present. Individuals not contributing to the GEON PAC may not serve as members of the Contributions Committee.**

**Section 2. The Contributions Committee may delegate to the Chairman, subject to the overall directions of the Committee, the responsibility for managing the financial affairs of GEON PAC, including the power to determine the candidates and/or political committees that GEON PAC shall support.**

**Section 3. Any action required of the Contributions Committee it may take without a meeting of such Committee if at least two-thirds of its members consent to or ratify such action in writing.**

**Section 4. The Treasurer, Secretary, Assistant Secretary(s), and Assistant Treasurer(s)**

may serve as members of the Contributions Committee or not as the Chairman of The Geon Company may require, but the Secretary or an Assistant Secretary and the Treasurer or an Assistant Treasurer should attend all meetings of the Contributions Committee.

Section 5. The Chairman of The Geon Company may designate one or more alternates to serve in place of one or more Contributions Committee members in the event of their absence at the time of a meeting.

## **ARTICLE X**

### **Meetings**

Section 1. Any member of the Contributions Committee may call it into session whenever such member or members deem it necessary that a question relating to the affairs of GEON PAC receive consideration by the Contributions Committee.

Section 2. A majority of the members of the Contributions Committee may call meetings of members of GEON PAC.

## **ARTICLE XI**

### **Adoption, Amendments and Bylaws**

Section 1. These Articles shall have effect from and after November 30, 1993.

Section 2. These Articles may undergo amendment, change and/or modification from time to time by action of a majority of the Contributions Committee, provided, however that Sections 1, 2 and 3 of Article VI may not suffer amendment or repeal so long as GEON PAC remains in existence.

## **ARTICLE XII**

### **Dissolution**

**GEON PAC may suffer dissolution at any time by vote of a majority of the Contributions Committee in a meeting having a quorum present. In the event of such dissolution, GEON PAC shall promptly distribute to candidates or committees all surplus funds in a manner consistent with Article IX hereof and for the purposes set forth in Article IV hereof.**

## **ARTICLE XIII**

### **Indemnification**

**The Geon Company and The Geon Company Political Action Committee shall defend, indemnify and hold harmless all Officers of the GEON PAC, all members of the GEON PAC and the directors, officers and management of The Geon Company from and against all fines, penalties or other effects of non-compliance with Federal or State election laws, except those where the individual claiming a right to defense and indemnification does so with respect to an event arising from the commission of a willful and knowingly wrongful act.**